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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



10-29-2002

U.S. Patent &amp; TMO/TM Mail Rcpt Dt. #70

NUMICO FINANCIAL SERVICES, S.A.

Opposer,

v.  
DR. JOEL D. WALLACH

Applicant.

Opposition No.: 91150888  
Serial No. 76/274,080

**STIPULATED PROTECTIVE ORDER**

IT IS HEREBY STIPULATED AND AGREED by the undersigned attorneys for the respective parties, subject to the Order of the Board, that:

1. Certain documents, information or material taken, given or exchanged in the course of these proceedings (the "Opposition") may contain, constitute or disclose confidential, commercial or proprietary information. This Stipulation and Order for the Production and Exchange of Confidential Information shall govern documents, information and any other discovery, hearing or trial materials which any party to this Opposition produces or provides pursuant to a discovery request and designates as "Confidential."

2. All documents produced and all information obtained through discovery in the Opposition designated as "Confidential" (as provided below) shall be used by the parties receiving it only for the purposes of preparing for and conducting the Opposition and for no other purpose.

3. In connection with discovery proceedings in the Opposition, any party may designate any document, material or information as "Confidential" under the terms of this Stipulation and Order if such party in good faith believes that such document, material or information constitutes or reveals confidential commercial or other proprietary business information which requires the protection provided in this Stipulation and Order.

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TRADEMARK TRIAL AND  
APPEAL BOARD

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4. Any documents or other tangible material designated as "Confidential" shall be so designated by stamping the same with the legend "Confidential" or similar legend at the time of their production.

5. Any interrogatory response designated as "Confidential" shall be so designated by stamping the same with the legend "Confidential" or a similar legend at the time of the response.

6. Any deposition or other testimony may be designated as "Confidential" by indicating on the record that the testimony is "Confidential" and subject to the provisions of this Order. Alternatively, the attorneys for a party need not designate specific testimony as "Confidential" during the course of the deposition but may request that the entire contents of the deposition shall be designated "Confidential" and subject to the provisions of this Order. The attorney designating an entire deposition as "Confidential" shall have fifteen (15) days from the receipt of the transcript to designate those portions of the testimony deemed "Confidential" and inform opposing counsel of such designations. The portions of the testimony so designated shall be subject to the provisions of this Order. Failure to so designate shall remove the entire deposition from the provisions of this Order.

7. Documents or material, including portions of deposition transcripts, and interrogatory responses designated as "Confidential" or information derived therefrom may only be disclosed or made available to "Qualified Persons," who consist exclusively of:

- (a) The Board (in the manner provided by paragraph 8 hereof);
- (b) Outside counsel to the parties who have entered appearances in this action and attorneys, clerical, paralegal and secretarial staff employed by such counsel;
- (c) Court reporters employed in connection with the Opposition;

(d) Attorney employees of the parties and their clerical, paralegal and secretarial staffs.

8. If documents, exhibits, answers to interrogatories, material (including portions of deposition transcripts) or other information designated as "Confidential" pursuant to any of the provisions hereof are to be included in any papers to be filed before the Board, such papers shall be endorsed with the caption of this action, labeled as "CONFIDENTIAL UNDER PROTECTIVE ORDER" and a statement substantially in the following form:

"This envelope containing documents which are filed in this case by (name of party) is not to be opened nor the contents thereof to be displayed except by Order of the Board" and filed under seal and kept under seal.

9. Because it is possible that a document will be produced in error without a "Confidential" designation, the producing party may, within five (5) business days thereafter, identify each such undesignated document, as well as any copy of each such document, and request that such document be treated as "Confidential." Upon receipt of such a request, the receiving party shall thereafter mark such document as constituting or containing "Confidential" information and shall treat such document in accordance with the provisions of this Protective Order.

10. At the conclusion of the Opposition, all documents, material or other information designated as "Confidential," all copies of the same and (except as provided herein with respect to documents reflecting attorney work-product) all documents reflecting same shall be promptly returned by the receiving party to the producing party or, after consultation with and approval by opposing counsel, destroyed by the receiving party. In the event that it is agreed that the

materials may be destroyed, the receiving party shall provide the opposing party with a signed statement attesting to the destruction of the documents.

11. Nothing herein shall preclude a party from exhibiting, during depositions, hearing or trial proceedings, in connection with briefs or other papers filed with the Board, any documents, exhibits, answers to interrogatories, material (including portions of deposition transcripts) or other information designated as "Confidential". However, if use is to be made of such materials or information at trial, during a hearing or deposition or in a brief, that portion of the brief, or the trial, hearing or deposition transcript wherein such use is made shall be maintained confidential and retained under seal, unless the parties waive this provision in writing or in open court as to any part or all of such material.

12. If the attorneys of record in this action for any receiving party object to the designation of any information, documents or materials as "Confidential" those attorneys shall so notify the attorneys for the producing party in writing (the "Notice"). The Notice shall identify the document, information or other material so objected to and shall (a) state that the receiving party objects to the designation of such document, information or materials as "Confidential"; (b) set forth the reasons for such objection; and (c) name the particular person to whom disclosure is sought to be made. If the producing party objects to the proposed disclosure within five business days after receipt of the written notice, the receiving party may seek a hearing with respect to the propriety of the designation and the producing party will cooperate in obtaining a prompt hearing with respect thereto. Until the Board rules on the receiving party's application, the documents and information in question shall not be disclosed by the receiving party to the person specified in the Notice.

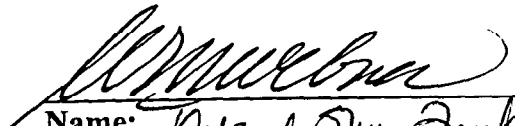
13. In addition to the provisions of paragraph 7 above, "Confidential" material or information may be disclosed or made available to a consultant or expert retained solely for the Opposition by the receiving party proposing to make such disclosure; provided that such consultant or expert is not (a) advising any business competitor of the producing party or (b) advising the receiving party seeking to make such disclosure with respect to any of the parties hereto, other than solely in connection with the Opposition; and further provided that such consultant or expert agrees in writing to be bound by the terms and conditions of this Stipulation and Order (including, without limiting the generality of the foregoing, paragraph 8 hereof); and agrees not to disclose or use such material or information for purposes other than the Opposition (a sample form is appended hereto as Exhibit A). It is further agreed that such disclosure shall only be made if written notice of the name, address, employment history, clients, education and published works of such consultant or expert is given to the party producing the material and such party does not object thereto within seven business days after receipt of such written notice (which objection must be made in good faith).

14. Any person other than those designated in paragraph 7 to whom confidential documents, information or other materials are disclosed or shown shall be given a copy of this Stipulation and Order and shall acknowledge in writing that he or she had read, understands and is subject to the terms and conditions of this Stipulation and Order and will not disclose such information, documents or materials except in accordance with the terms of this Stipulation and Order (see form attached hereto as Exhibit A).

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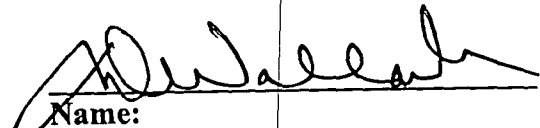
APPROVED AS TO FORM AND SUBSTANCE


NUMICO FINANCIAL SERVICES, S.A.

  
Name: Deborah Oker Inaker  
Title: Rexall Eudon, Inc  
Numico Financial Services

\_\_\_\_\_  
W. Mack Webner, Esq.  
SUGHRUE MION, PLLC

DR. JOEL D. WALLACH

  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

  
Ned Ardagna, Esq.  
HASKINS & ASSOCIATES

By Order of the Board, effective \_\_\_\_\_.

\_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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**ACKNOWLEDGMENT OF STIPULATED PROTECTIVE ORDER**

I, \_\_\_\_\_, declare that I have been provided with a copy of the Stipulated Protective Order regarding the disclosure of, and protection of, certain types of information and documents during and after the above-captioned opposition proceeding before the Trademark Trial and Appeal Board.

I have read the Stipulated Protective Order and understand its terms and provisions, by which I agree to be bound. Specifically, I agree to hold in confidence any information or documents disclosed to me in conjunction with any part I take in this proceeding.

I declare under the penalty of perjury that these statements are true and correct.

\_\_\_\_\_  
**Name:**

**Title:**

\_\_\_\_\_  
**Date**